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OCA 86-2647
8 August 1986

OCA FILE *Legislation*
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MEMORANDUM FOR: (See internal distribution)

FROM:

Deputy Director for Legislation
Office of Congressional Affairs

STAT

SUBJECT: Request for Comments: Second Draft of Intelligence
Community Legislative Program for First Session of
the 100th Congress

1. Attached for your review and comment please find copies of the second and final draft of the Intelligence Community Legislative Program for the First Session of the 100th Congress. This draft reflects comments from the Community and the Agency received after circulation of the first draft (dated June 30, 1986).

2. We ask for your comments on this second draft by August 15, 1986. This will enable the Program to be sent forward to the Director of Central Intelligence (DCI) for his approval and then, in turn, forwarded to the Office of Management and Budget (OMB) by the Gramm-Rudman-imposed deadline of September 1, 1986. Your attention is directed to the following items.

3. Access to Agency Employee Financial Information To Assess Vulnerability to Counterintelligence Threat. In their comments on Item #100/1 - 3 (Right to Financial Privacy Act Amendment), several components recommended that Agency access to an employee's financial institution record information be made contingent upon a threshold determination that the employee is vulnerable to a counterintelligence threat. In response, the language of item #100/1 - 3 itself was modified to reflect such a threshold.

4. We understand that the Office of General Counsel and the Deputy Directorate for Administration are currently reviewing the entire area of employee financial vulnerability to the counterintelligence threat. Inclusion of Item #100/1 - 3 in the program preserves the option of going forward with legislation in this area should that be determined to be necessary.

5. Continuity of DCI Function. Item #100/1 - 30 reflects a proposal from the Executive Secretary that a legislative solution be sought to the problem of how the DCI's statutory functions can be performed in those instances when both the DCI and the Deputy Director for Central Intelligence are unavailable.

6. Congressional Security Survey. As part of this Office's ongoing efforts to increase the security with which Agency information is handled by the Congress, we have included in the Program a proposal to authorize the Executive Branch to assist the Congress in conducting a survey of its security needs, Item #100/1 - 22. This item signals an intention to propose or support legislation if, after a review of our efforts, it is determined to be necessary.

7. Repeal of Programmatic Restrictions and Reporting Requirements.

Recent discussions with the intelligence oversight committees have indicated agreement that some reporting requirements and programmatic restrictions in law and in previous budgets may be outdated, unnecessary or unduly burdensome. We are in the process of identifying these for possible repeal/recision in connection with the Fiscal Year 1988 Intelligence Authorization Act budgetary process. Item #100/1 - 25 is included in the Program to signal an intention that legislation may be considered if the results of the review indicate it is required.

8. "Former Spouses" Items. The one "former spouses" proposal of the first draft was divided into two proposals for clarity's sake: #100/1 - 6A (Survivor and Health Benefits for Certain Former Spouses of CIA Employees) and #100/1 - 6B (Conformance of Certain Provisions of CIARDS with P.L. 98-615).

9. Item 100/1 - 6A reflects a provision, already contained in both the House and Senate version of this year's intelligence authorization bill, to extend to pre-1982 Agency "former spouses" the benefits of the CIA Spouse Equity Act of 1982. It is included in the Program merely to show continued support for that provision in the event the Intelligence Authorization bill does not pass in its current form and the item must be considered anew next year.

10. Item 100/1 - 6B represents an effort to extend to all Agency "former spouses" the benefits of the Civil Service Spouse Equity Act of 1984. The underlying legislation was considered for inclusion in last year's draft intelligence authorization bill as sent to the Congress, but had to be dropped due to the press of time.

11. Interlocutory Appeal and Drug & Alcohol Abuse Authorities. At the request of the Office of General Counsel (OGC), two items from previous years were included: interlocutory appeal authority (Item #100/1 - 31) and clarification of CIA/NSA/DIA drug and alcohol abuse authorities (Item #100/1 - 21). In view of the unfavorable reception which the Congress previously gave to these items in the past, OGC is currently reviewing them with a view towards improving their reception and answering some of the Congressional objections should the proposals ultimately be sent forward.

12. NSA Proposals. The National Security Agency (NSA) proposes for inclusion in the program four items. Three have been previously reviewed in one form or another: #100/1 - 27 (Foreign Cryptography Controls), #100/1 - 28 (Tax-Exempt Payments for Certain NSA Employees) and #100/1 - 29 (Squillacote Payments to NSA Employees). The fourth, NSA Special Expenditure of Funds Authority, #100/1 - 26, is new. The authority sought here would be similar in nature to that already possessed by the Agency under Section 8 of the Central Intelligence Agency Act of 1949.

13. Foreign Agent Registration. A proposal has been added to amend the Foreign Agents Training Act. That Act requires an individual who has received training in espionage to register with the government. Failure to register is punishable by imprisonment for up to five years. The FBI has attempted to use the Act against "support agents" who are not directly involved with passage of classified information to a foreign power, but who help others engaged in espionage by renting a safe house or performing other acts that further an espionage operation. The Act, which was passed in 1956, has not proved useful because the government has interpreted the Act to allow an individual to cure a failure to register by registration after they have been apprehended for violation of the Act. The proposed amendment would make clear that registration after a certain date following training in espionage would not cure the previous violation.

14. Please feel free to contact this office should you have any questions on this matter.



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OCA/LEG (8 Aug 1986)

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